

Recent museum ethical policies and their implications for university museums

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Resumo

Hoje em dia, os museus têm o dever de se manterem informados sobre uma grande diversidade de assuntos éticos e deontológicos de grande impacto, sendo essencial que quem se encontra à sua frente não apenas demonstre padrões éticos de elevado nível mas também implemente as novas práticas e orientações emanadas das diferentes associações profissionais. Debruçando-se sobre este tema, os grupos de trabalho da 'Associação Americana de Museus (AAM), nos Estados Unidos da América, recomendaram dois conjuntos de orientações que foram posteriormente adoptados pela Direcção da AAM: o primeiro relativo à apropriação ilegal de objectos durante a Era Nazi e o segundo referente à exposição de peças cedidas por outras instituições. No caso dos museus universitários, estas orientações podem resultar em desafios particularmente novos.

Abstract

Today museums must be cognizant of a multitude of widely publicized ethical issues. It is important that museum leaders demonstrate the highest ethical standards and be responsive to new policies and practices instituted by professional museum associations. In America over the past several years, American Association of Museums (AAM) task forces have recommended, and the AAM Board has approved two important sets of guidelines: one concerning the unlawful appropriation of objects during the Nazi era and the second focusing on exhibiting borrowed objects. Both sets of guidelines may present special challenges for university museums.

As museums become more visible and accountable to the public, it is important that the actions taken by their leaders be 'transparent' and meet the highest ethical standards. Over the past several years, American Association of Museums (AAM) task forces have recommended, and the AAM Board has approved two important sets of guidelines – one concerning the unlawful appropriation of objects during the Nazi era and the second focusing on

exhibiting borrowed objects. Both sets of guidelines make specific recommendations that delineate the scope of ethical activity in professional museums. These guidelines present special challenges for university museums, which are broached in this paper.

To begin, an overview of the activities responding to the astonishing scope of Nazi era appropriated art

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in the United States, is instructive. In June 1998 the American Association of Art Museum Directors (AAMD) issued the *Report of the AAMD Task Force on the Spoliation of Art during the Nazi/World II Era (1933-1945)*, the first set of guidelines that urged museums to review the provenance of works in their collections and to thoroughly research and report questionable objects. During the same time the Presidential Advisory Commission on Holocaust Assets in the United States (PCHA) was created to study and report to the President on issues relating to Holocaust victims' assets in the United States. In December 1998 the *Washington Conference Principles On Nazi-Confiscated Art*, was released in connection with the Washington Conference on Holocaust-Era Assets held in Washington, DC. In January 1999 ICOM issued *Recommendations concerning the Return of Works of Art Belonging to Jewish Owners*. In addition, a number of important books, as well as a variety of other conferences and commissions, have gathered and shared information in an attempt to address the magnitude of this situation. In time for the AAM 2000 Annual Meeting in May, in Baltimore, the first set of Nazi era provenance research and ethical guidelines from AAM were distributed (*Guidelines Concerning the Unlawful Appropriation of Objects During the Nazi Era* was issued by AAM, November 1999 and amended April 2001).

As the international program chair for AAM/ICOM (United States National Committee of ICOM), I was pleased to organize and chair the first formal session on 'Nazi Era Provenance Research: Finding Assistance and Drawing on Experience' at the AAM 2000 Annual Meeting. This double session brought together, for the first time, a group of the most prominent specialists and resource people involved with Nazi era provenance research. They are: Sarah Jackson, Director of Historic Claims at the Art Loss Register, London, UK; Louis

Marchesano, Collections Curator at the Getty Research Institute for the History of Art in Los Angeles, California; Greg Bradsher, Director of the Holocaust Era Assets Records Project at the National Archives and Records Administration in College Park, Maryland; Dr. Constance Lowenthal, Director of the Commission for Art Recovery, World Jewish Congress in New York City; Dr. Jonathan Petropoulos, professor, author and Chair of the fine arts division of the Presidential Commission on Holocaust Assets; Teri Edelstein, Museum Consultant and the former Deputy Director of the Art Institute of Chicago; and Nancy Yeide, Head of the Department of Curatorial Records at the National Gallery of Art in Washington, D.C. The first half of the session focused on the resources that were currently available to assist museums with provenance research. It also featured a discussion of the resources that still need to be developed and/or implemented. The second part of the session highlighted individuals and museums that utilized available resources for specific cases and the outcomes of that research. Several key presenters provided information on how to establish a reasonable course of action for undertaking provenance research of museum collections. What should a museum do when it discovers a work with questionable provenance in its collection? Where do museum professionals go to find assistance and information? How does a museum go about establishing a provenance research project, when there are so many other competing needs for its human and financial resources?

This double session, followed by meetings in the late summer and early fall at the National Archives and the Metropolitan Museum of Art, made it clear that there was an urgent need for a guide to international resources for conducting provenance research as well as sample policies and model practices, related to the matter. As a result, three museum professionals,

Nancy Yiede, Konstantin Akinsha, and Amy Walsh collaborated with AAM to produce *The AAM Guide to Provenance Research* (YIEDE *et al.* 2001). The first book of its kind in the United States, it was designed to assist museum curators, dealers, and scholars with their research. In addition, the Muscarelle Museum of Art at The College of William & Mary was pleased to contribute to the recently published *Museum Policy and Procedure for Holocaust-Era Issues*, a collection of sample working policies and procedures representing best practices in the field, collected from accredited museums, including university museums, across the country.

Also available on its website¹, is the recent *AAM Recommended Procedures for Providing Information to the Public about Objects Transferred in Europe during the Nazi Era*. These recommended procedures have been formulated by AAM pursuant to an agreement reached in October 2000 between AAM, AAMD, and PCHA. Provisions of the Agreement include the following points: 1) a plan to expand online access to museum collection information that could aid in the discovery of objects unlawfully appropriated during the Nazi era, 2) the identification of the types of objects for which this information should be made available (currently only European paintings and Judaica) and, 3) the recommendation that museums identify all objects in their collections that were created before 1946 and that it acquired after 1932, or that underwent a change of ownership between 1932 and 1946, and that possibly could have been in continental Europe between those dates referred to as 'covered objects' throughout this document). In the event that a museum is unable make these determinations about an object, it should be treated

as a covered object; and further 4) to make currently available object and provenance information about covered objects accessible online; and to give priority to continuing provenance research on those objects as resources allow.

The recommended procedures include a template listing 20 categories of information about covered objects that museums should compile and make available. AAM views these procedures as fundamental to the mission of museums to document and publish their collections and recognizes that, because of the Internet's global reach, posting collection information online should be a goal. Museums are encouraged to construct online searchable databases in which the posting of information about covered objects should be a priority. In order to expedite searches for information about covered objects in museum collections, AAM will launch a search tool called the Nazi-era Provenance Internet Portal. The information that the portal will use to assist searchers will be housed in a database. Details about the Internet portal and a timetable for implementation are also delineated in this procedural document.

Finally on this subject, AAM/ICOM (United States National Committee of ICOM) submitted a resolution that was adopted by the 20th General Assembly of ICOM, Barcelona, on July 6, on *Museums and Objects Misappropriated under the Nazi Regime*.

Challenges for university museums

In dealing with this subject, university museums often face special problems that have not been

¹ Cf www.aam-us.org/nazieraprov.htm.

recognized or addressed in any of the recent policy statements and guidelines. These are inherent problems for university museums, in that they relate to their relationship with their parent organization, the university, and its governance structure and policies. Starting at the very basic level many university museums in the United States (and it may be true elsewhere) do not own their collections. Often the collections are owned by the university and the museum is the designated trustee for museum quality objects that belong to the university. While it is true that AAM accredited university museums must have a certain level of autonomy, where the director is responsible for the day to day operations and all professional policy decisions, frequently the lines of authority are not that clear or simple in actual practice.

As a Board member of both AAM/ICOM and the Association of College and University Museums and Galleries (ACUMG), I have been in a position to hear of the difficulties faced by university museums in their attempts to comply with the recent Nazi Era provenance research policies and guidelines. While it is generally acknowledged that this type of provenance research is fraught with general difficulties and is also very time consuming, the problem is magnified for university museums because they may not even have a place to start. It has been noted that the vast majority of university museums and galleries in the United States are less than fifty years old, while their parent organizations often have considerably longer history. Typically collections from all over the university are rounded up and deposited at the new university museum as soon as it opens. This is sometimes done prior to the hiring of a professional staff and the objects are typically deposited with little or no documentation. Many of these objects were gifts to various departments over

time, and in some cases the university may have no proof or record of ownership.

This is certainly true for my own institution. The collection at the College of William and Mary goes back to its founding in 1693. When the Muscarelle Museum of Art opened in 1983 the majority of the 3,000 objects deposited there had no appropriate provenance. Many were discovered in closets, offices and storage rooms of various academic buildings and held no clue as to who gave them to the College and when. This story is hardly unique among university museums. Many objects sharing this unknown history are considered covered objects under the recent AAM recommended procedures.

Frequently to add to the burden, university museums often deal extensively with less celebrated and/or unidentified artists as well. To complicate the matter further, a university museum's collection may be owned by more than one entity. Many state institutions have, over the years, created separate non-profit foundations or endowment associations to accept gifts for a variety of legal and financial reasons. Some universities that were initially private subsequently became state or state-assisted institutions. In our own case, some collection works are owned by the College, some are owned by the Commonwealth of Virginia and the more recent acquisitions are owned by the Endowment Association of The College of William and Mary. Seeking to carry out the professional practices regarding Nazi era works of art requires accurately identifying and receiving the cooperation of the legal owner of the work. Recent major media coverage of this issue has made gaining this cooperation easier (a few years ago it might have been impossible). I am currently aware of a university museum struggling to identify the actual ownership of a

significant Impressionist painting in order to proceed with its provenance research.

Even less pleasant, are the cases where the university administration has little understanding of, or interest in, the professional practices of their university museum. Some university administrations, in their zealous efforts to protect major university donors and important alumni, have prevented communication and full disclosure of provenance details from taking place, out of fear of alienating these VIPs. It was only a few years ago that such inquiries would have definitely offended or upset a museum's more difficult donors.

It is this last element that also contributes to potential problems for university museums compliance with another recent set of guidelines from AAM. These are *Guidelines on Exhibiting Borrowed Objects*, issued in August 2000 (the complete *Guidelines* are currently available on the AAM website). They are ethical guidelines that provide the museum profession with more detailed guidance on the development of institutional policies and standards for exhibiting borrowed objects, consistent with the AAM Code of Ethics. The principles that inform the guidelines include: adhering to an ethical standard that exceeds the legal minimum; acting in a manner that is consistent with the museum's mission; documenting



Fig. 1 – JEAN BAPTISTE CAMILLE COROT (French, 1796-1875). *Village scene*, oil on canvas, 15x17 inches. Bequest of John Presson, 1973.119, collection of the Muscarelle Museum of Art, The College of William and Mary (Photo courtesy of the Muscarelle Museum of Art).

activities; adhering to an ideal of transparency; and maintaining control over museum activities.

As a result of concerns expressed both in the public media and from within the museum community with regards to several high profile museum exhibitions where large financial contributions appeared to have possibly influenced the scheduling of those specific exhibitions, the AAM Board convened a task force to consider what constituted ethical activity in the exhibition borrowed objects. This a matter of public trust and accountability for museums charged with an educational mission and the preservation of cultural heritage. The Guidelines are the result of the task force's efforts and stress that the "actions related to borrowing objects for exhibition should be consistent with the museum's mission and with the policies and procedure that flow from that mission". In addition, museums should document the process of borrowing for exhibitions to protect their assets and reputation and to guide institutional actions consistent with their mission. "Adhering to an ideal of transparency museums should take reasonable steps to make their actions visible and understandable to the public, especially where lack of visibility could reasonably lead to appearances of conflict of interest". According to this document, the museum's governing structure must maintain the intellectual integrity of, and the museum's control over, all activities, including exhibitions.

Herein, again lies the potential problem for university museums in its relationship with its parent institution. Most often, university museums do not have Boards with fiduciary responsibility. They may have advisory boards, but the ultimate responsibility for governance is channeled through the university administrator who supervises the museum. Frequently, at accredited university museums this

supervisor is the president of the university, a vice president or the provost, who then reports to the university's Board of Trustees.

Given this relationship, there is a great deal of opportunity for conflict with these guidelines to occur. The mission of university museums often includes a statement about service to the university, which is generally vague enough to allow a multitude of sins in its interpretation. Major contributors to the university at large may also contribute to the museum. Showcasing the collection of such an individual at the museum, might make perfect sense in relation to the museum's mission statement, but the museum's director or its advisory board might not be told about the extent of the donor's recent or pending gifts to the university or that individual's estate plans. University museums are often urged by particular academic departments to exhibit specific individual collections based on curriculum needs. That may be the communicated motivation. University museums are not often informed about pending major gifts in other academic departments. When exhibiting borrowed objects, it is very difficult for a university museum to make a donor relationship visible or transparent, when the details of privileged arrangements with the university are not known to them at the time. The appearance of conflict of interest is sometimes unavoidable in such cases.

This particular set of ethical guidelines has neither the moral gravity nor the weight of historical evidence that characterizes Nazi era provenance issues. With the latter, although university museums may have a daunting task before them, at least they can harness the educational resources of the university to create a greater awareness of, and interest in, the situation at hand. Due to the interdisciplinary nature of Nazi era provenance



Fig. 2 - JAMES WORSDALE (English, 1692-1767) after Johan Kerseboom (English, d. 1708). *Portrait of the Honorable Robert Boyle*, 1720 or 1726, oil on canvas, 49x39 inches. Gift of the Third Earl of Burlington, 1732.001, collection of the Muscarelle Museum of Art, The College of William and Mary (Photo courtesy of the Muscarelle Museum of Art).

research it can easily become the focus of alumni lectures, academic curriculum, and international studies or law school seminars. Such endeavors may even lead to making progress in identifying long forgotten objects that came into the collection. Most accredited university museums have admirably adopted the AAM recommendations in their current acquisitions policies and procedures. It is the backlog

of objects, seemingly without a past, that present the greatest challenge. On the other hand, the *Guidelines on Exhibiting Borrowed Objects* goes to the heart of the divisiveness of administrative and departmental interests inherent in many universities. The documents vague wording opens it up to various levels of interpretation (a specialty of universities!) and presents potential ethical dilemmas for

university museums. However, it is also true that at universities where there is a respect for professional museum practices, the AAM *Guidelines for Exhibiting*

Borrowed Objects can serve as an effective defense against the parent organization using its museum for blatant funding cultivation.

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